

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 24151 of 2004

Between:

Borra Pothuraju, S/o Borra Pandu Ranga Rao, R/o Nidamaru Village,
Kruthivenu Mandal, Krishna District, Andhra Pradesh.

..... PETITIONER

AND

- 1 The Prl. Secretary to the Government, (G.A.D), Government of Andhra Pradesh, Secretariat, Hyderabad-AP.
- 2 The Collector and District Magistrate, Krishna District, Machilipatnam, A.P.
- 3 The Superintendent, Central Prison, Rajahmundry, East Godavari District, Andhra Pradesh.
- 4 The Prohibition and Excise Inspector, Prohibition and Excise Station, Bantumilli, Krishna District, A.P.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Habeas Corpus directing the respondents herein to produce the body of the petitioners father, detenu herein, Mr. Borra Pandu Ranga Rao S/o Vaddikasulu, aged about 50 years, Occ: Agricultural labour, Before this Hon'ble Court, who is in the custody of the 3rd respondent , upon the Preventive Detention Order, Arbitrarily, Illegally and without application of mind, passed by the 2nd Respondent dated 28-10-2004 and consequently, quash, set aside the impugned detention Order passed by the 2nd respondent, Vide Rc.No. 2928/2004/CI, dated 28-10-2004 , holding the same is illegal, arbitrary and unconstitutional and consequently direct the Respondents herein to henceforth release the detenu herein Borra Panduranga Rao S/o

Vaddikasulu from the custody of the respondents and pass such other order or orders

Counsel for the Petitioner: L.V.UMA MAHESWAR RAO

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE DR. JUSTICE G. YETHIRAJULU

W.P.No. 24151 of 2004

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ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Against an order of detention of Borra Pandu Ranga Rao in terms of the provisions of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 this writ petition has been filed. Counter-affidavit has been filed. We have heard the learned counsel for the parties and perused the record. In the grounds of detention it is stated inter alia,

“There are several oral complaints received against you about the illegal activities of yours are causing wide spread danger to public health and creating a feeling of insecurity among the general public of that locality. If your activities are allowed unchecked there is every danger of its leading to Liquor Tragedies costing many lives of poor people in Nidamaru village and its surroundings and thereby effects the public order.”

Admittedly these oral complaints were not communicated to the detenu, therefore his rights under Article 22 (5) of the Constitution of India get violated. These oral complaints are not even before us. Since these oral complaints were part of the material on the basis of

which the District Magistrate came to the subjective satisfaction that the detenu needs to be detained, therefore non supplying of these oral complaints renders the detention illegal. For this reason alone, we allow the writ petition, quash the order of detention and direct immediate release of the detenu, if not needed in any other case. Since we have quashed the order of detention for the reasons given hereinabove, we do not propose to deal with the other grounds mentioned for challenging the order of detention. No costs.

BN J.

GYR J.

Dt.17.1.2005

NB:

Advance order of operative portion of this order be sent immediately today itself to jail authorities.

/BO/

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ASST. REGISTRAR

To

- 1 The Prl. Secretary to the Government, (G.A.D), Government of Andhra Pradesh, Secretariat, Hyderabad-AP.
- 2 The Collector and District Magistrate, Krishna District, Machilipatnam, A.P.
- 3 The Superintendent, Central Prison, Rajahmundry, East Godavari District,

Andhra Pradesh. (By speed post)

4 The Prohibition and Excise Inspector, Prohibition and Excise Station,
Bantumilli, Krishna District, A.P.

5.2 CCs to Advocate General, High Court Buildings, Hyderabad (out)

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